

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Rigie	Team: Squad #1	CCRB Case #: 201503175	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/23/2015 3:25 AM	Location of Incident: § 87(2)(b)	Precinct: 48	18 Mo. SOL 10/23/2016	EO SOL 10/23/2016	
Date/Time CV Reported Fri, 04/24/2015 3:20 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 04/24/2015 3:20 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Roberto Suarez	4941	943850	048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Curtia Whitehead	31605	953566	048 PCT
2. POM Alexander Taveras	07949	947952	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Roberto Suarez	Abuse: Sgt. Roberto Suarez interfered with § 87(2)(b)'s video recording of the incident.	§ 87(2)(b)

Case Summary

On April 24, 2015, § 87(2)(b) filed this complaint with the CCRB via email. § 87(2)(b) said that on April 23, 2015, at approximately 3:25 a.m., he was videotaping police activity in the vicinity of 400 East 180th Street in the Bronx. At this location, 10 to 15 officers were interacting with three to five individuals suspected of being involved in a fight and possibly possessing a gun. Shortly after beginning to record, Sgt. Roberto Suarez turned on his flashlight and kept it pointed at § 87(2)(b) for approximately three minutes and twenty seconds. Sgt. Suarez told § 87(2)(b) that he could not see what § 87(2)(b) was holding in his hands, but § 87(2)(b) believed that Sgt. Suarez was attempting to impede his ability to videotape the police interaction (**Allegation A**). Before Sgt. Suarez left the scene, § 87(2)(b) asked for and received the sergeant's name and shield number. § 87(2)(b) was not summonsed or arrested during this incident.

Mediation, Civil and Criminal Histories

- § 87(2)(b) accepted mediation for this case, but Sgt. Suarez rejected it (see IA's pertaining to mediation).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On August 14, 2015, a FOIL request confirmed that § 87(2)(b) had not filed any notices of claim for this incident (02 Board Review).

Civilian and Officer CCRB Histories

- § 87(2)(b) (03 Board Review).
- Sgt. Suarez has been a member of the NYPD for 8 years and has seven prior CCRB cases involving 17 allegations, including one substantiated stop allegation § 87(2)(g).

Findings and Recommendations

Allegations not pleaded

- § 87(2)(b)'s video shows unidentified officers frisking unidentified individuals however, because those actions were already in progress when the video begins, there is no context to the officers' actions. For his part, § 87(2)(b) did not allege any misconduct on behalf of those individuals. § 87(2)(g) (05 and 06 Board Review).
- In his statement, § 87(2)(b) described one or two other officers as shining their flashlights at him, but said that they stopped after approximately 40 seconds and did not allege that these officers impeded his ability to record. § 87(2)(g).

Allegation A -Abuse of Authority: Sgt. Roberto Suarez interfered with § 87(2)(b)'s video recording of the incident.

§ 87(2)(b) said that during the incident, he was standing underneath a street light and was wearing a black t-shirt, § 87(2)(b). He was also wearing a baseball cap and dark jeans. § 87(2)(b) had a walkie talkie clipped to the right side of his belt, which he said created a cell phone sized, rectangular bulge underneath his t-shirt, but he had no weapons on his person. § 87(2)(b) held his camcorder with both hands while filming the police interaction and was standing approximately 15 to 20 feet away from the officers. At the end of the incident, § 87(2)(b) realized that he recognized Sgt. Suarez from prior unrelated incidents and precinct council meetings he attended (06 Board Review).

In § 87(2)(b)'s video of the incident, we can initially see Sgt. Suarez and another male officer who the sergeant later identified as PO Taveras during his interview. Ten or 15 uniformed officers are seen speaking to three or four other individuals, some of whom appear to be frisked. From the video, it is clear that there are street lights nearby, but it cannot be determined whether § 87(2)(b) is standing directly under one. At 01:04 Sgt. Suarez and PO Taveras begin shining their flashlights towards § 87(2)(b). PO Taveras' flashlight cuts out after approximately 40 seconds, but Sgt. Suarez's flashlight remains on. § 87(2)(b) complains to Sgt. Suarez that the sergeant is violating his constitutional rights, but the sergeant tells § 87(2)(b) repeatedly that he cannot see what is in § 87(2)(b)'s hands. PO Taveras then walks towards § 87(2)(b) tries to explain the situation and offers to play § 87(2)(b) the radio run of the incident. § 87(2)(b) says that this is not necessary. At 03:03 § 87(2)(b) asks Sgt. Suarez for his shield number. Sgt. Suarez immediately replies with his name and shield and § 87(2)(b) says thank you. At 04:33, Sgt. Suarez shuts off his light and explains to § 87(2)(b) again that he could not see what was in his hands, because it was dark outside. At approximately 04:50, § 87(2)(b) is heard telling Sgt. Suarez that he violated the patrol guide by interfering with his ability to record. Sgt. Suarez replied that since § 87(2)(b) was still filming, the sergeant did not violate any rules (05 Board Review).

Sgt. Suarez said that he and his operator, PO Curtia Whitehead, responded to a call for assistance from other officers who responded to an earlier report of an individual with a gun. On arriving at 400 East 180th Street, numerous unknown officers from the 48th Precinct and Operation Impact had over five individuals stopped. Sgt. Suarez and PO Taveras noticed § 87(2)(b) standing approximately 20 to 25 feet away from them and holding something in his hands. § 87(2)(b) was standing in a dark area and Sgt. Suarez could not initially see what he was holding. PO Taveras shined his flashlight at § 87(2)(b) followed soon after by Sgt. Suarez. Sgt. Suarez could then see that § 87(2)(b) was holding a camera in his hands. PO Taveras shut off his flashlight and walked up to § 87(2)(b) in order to speak with him. Although Sgt. Suarez knew at this point that § 87(2)(b) was holding a camera, Sgt. Suarez continued to shine his flashlight at § 87(2)(b). Sgt. Suarez took this action because it was dark where § 87(2)(b) was standing, PO Taveras was standing close to § 87(2)(b) alone, and the other officers on the scene were all busy interacting with the other individuals who were stopped. Sgt. Suarez therefore believed that it was necessary to illuminate § 87(2)(b) to see what he was doing for the safety of PO Taveras and the other officers (07 Board Review).

An NYPD Finest Message dated August 6, 2014 says that officers are not to interfere with individuals recording police interactions, but may take action if the individuals interfere with

[illegible]

Investigator:	_____	_____	_____
	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date